

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CARLO E. CEROME,	:
Plaintiff	:
v.	: Case No. 3:07-cv-77-KRG-KAP
MOSHANNON VALLEY CORRECTIONAL	:
CENTER, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on March 6, 2009, docket no. 27, recommending that the defendants' motion to dismiss (or for judgment on the pleadings), docket no. 23, be granted, and the complaint dismissed for lack of exhaustion of administrative remedies.

The parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had ten days to file written objections to the Report and Recommendation. Plaintiff filed a motion for extension of time to file objections on the ground that his access to the law library was limited. docket no. 28.

After de novo review of the record of this matter, and the Report and Recommendation, the following order is entered:

AND NOW, this 27<sup>th</sup> day of March, 2009, it is

ORDERED that the defendants' motion to dismiss, docket no. 23, is granted. The Report and Recommendation recommending dismissal for lack of exhaustion is adopted as the opinion of the Court. The plaintiff's motion for extension of time, docket no. 28, is denied. Proof of exhaustion rests on historical facts already in the record: no additional law library time will change their significance. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,  
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

Carlo E. Cerome, Reg. No. 62030-053  
Northeast Ohio Correctional Facility  
2240 Hubbard Road  
Youngstown, OH 44505